OVERVIEW OF CHANGES TO THE

Child, Youth and Family Enhancement Act

BUILDING STRONG FAMILIES

Child, Youth & Family

ENHANCEMENT ACT

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In 2001, Honourable Iris Evans, Minister of Alberta Children's Services, announced the review of the *Child Welfare Act*. The recommendations contained in the resulting report, *Strengthening Families, Children and Youth*, were further considered in drafting the *Child Welfare Amendment Act*. The recommendations and proposed legislation was based on research and information obtained through a community consultation process that involved over 140 meetings and the receipt of over 600 submissions from stakeholders across the province. The *Child Welfare Amendment Act* was introduced in the Legislative Assembly on March 4, 2003, and received Royal Assent on May 16, 2003. Further amendments to the *Child Welfare Act* were made on March 15, 2004 and received Royal Assent on March 30, 2004. The *Child Welfare Amendment Act* will be coming into force on November 1, 2004, at which time the *Child Welfare Act* will be renamed the *Child, Youth and Family Enhancement Act* (*Enhancement Act*).

Through evidence-based practice, the *Enhancement Act* further supports the development and well-being of children, youth and families while keeping them safe and protected. The *Family Support for Children with Disabilities Act* was developed through the review of the *Child Welfare Act*. The *Family Support for Children with Disabilities Act* enhances supports and services available to children with disabilities and their families, by providing a spectrum of proactive family-centered services to strengthen the family's capacity to promote their child's healthy growth and development. For families accessing both programs, support and services are coordinated to ensure the necessary level of support is provided. The two pieces of legislation enable

the achievement of Children's Services vision of an Alberta where children and youth are valued, nurtured and loved, and develop to their potential supported by enduring relationships, healthy families and safe communities. The mission of Children's Services is achieved through working together to enhance the ability of families and communities to develop nurturing and safe environments for children, youth and families. Through the coordination of the *Enhancement Act* and the *Family Support for Children with Disabilities Act*, families will receive the level of support and services to assist them in caring for their children.

This booklet was designed to provide an increased understanding of some of the changes resulting from the *Child, Youth and Family Enhancement Act*. In each category, the section of the *Enhancement Act* has been noted for easy reference. For specific amendments to the *Child Welfare Act* visit www.assembly.ab.ca/pro/bills/ba-main.as. Further updates will be posted at www.child.gov.ab.ca/enhancementact.

PROTECTION

Legislation: Section 1(1)

The terminology and use of the word protection has been changed to intervention. Specifically, a child is found to be in need of intervention versus in need of protection.

MATTERS TO BE CONSIDERED

Legislation: Section 2

If a child is in need of services under the *Enhancement Act*, the caseworker, the court, an appeal panel and all persons who have any authority to make a decision or recommendation under the act, must do so in the best interests of the child in accordance with the *matters to be considered*. The *matters to be considered* are the legislated guiding principles for decision-making and emphasize the following:

- The family unit and the importance of supporting families to ensure the safety and well-being of their children.

- The importance of stable, permanent, nurturing relationships for the child, as this is critical for a child's healthy development.

  In obtaining earlier permanency for children, especially those who require a placement due to their parent's inability to provide adequate care, there is an increased emphasis on obtaining placements within the child's extended family and community. Reunification with the child's family is always the first priority, however some children are not able to return to their parent's care. In these instances, there is an increased emphasis obtaining earlier permanency in a placement other than the care of government.

- Provision of intervention services with the least disruption to the child.

- The importance of caseworkers and those involved with the child in ensuring the child's opinion is considered.

- Increased parental responsibility and accountability in providing for their children.

- For domestic violence, the priority is placed on providing supports that reduce the risk to the child and keep the abused family members together.

- An increased focus on connecting families to community resources.

- Utilization of a collaborative and multi-disciplinary team approach to problem solving and working with children and families.

- A stronger focus on early permanency for children and supporting youth in transitioning to adulthood.

- Increased awareness and respect for the child's cultural heritage.

- The importance of preserving an Aboriginal child's cultural identity including their heritage, spirituality and traditions, especially for those who are in the care of government.

GROUNDS FOR FINDING A CHILD IN NEED OF INTERVENTION

Section 1(2), 1(2.1), 1(3)

The *Enhancement Act* provides the legislative base for the provision of a range of services to children and families where children are found to be "in need of intervention."

These criteria have been strengthened under the *Enhancement Act* to better reflect the underlying principles of the *matters to be considered,* emphasizing the best interests of the child, the importance of parental responsibility, and ensuring stability and earlier permanency for the child.

As per the legislation, a child is in need of intervention if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of a number of identified criteria including abuse, neglect, emotional injury and abandonment.

The definitions of neglect and emotional injury have also been changed to better support children and families, and ensure consistent, quality decisions are made to protect children and assist in their healthy development.

Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver is not able to sustain or meet the basic needs of a child. This results in an accumulation of harm that can have long term effects on the child's overall physical, mental, or emotional development. To assist caseworkers in further supporting families, the *Enhancement Act* has re-defined neglect to include failure through action or omission by the guardian to provide the necessities of life, including medical

care necessary for the health and well-being of the child, or adequate care and supervision of the child.

The *Enhancement Act* also clarifies the definition of emotional injury to ensure protection for children exposed to emotional, social, cognitive or physiological neglect or to a mental or emotional condition of a parent or anyone who lives with the child. The definition of emotional injury reinforces the impact parental behaviour has on a child's emotional well-being. The definition also includes an assessment that there are reasonable and probable grounds to believe that the injury was caused by a parental behaviour such as neglect, rejection, deprivation of affection, exposure to domestic violence, or chronic alcohol abuse.

DIFFERENTIAL RESPONSE

Legislation: Section 1(1)(m.1), 1(1)(s), 1(2), 4(1), 6

Differential response allows for increased flexibility in responding to families with different needs to ensure their children's safety and well-being. The legislation and supporting policy places a greater emphasis on the importance of a thorough assessment to determine the need and level of service that is required to further support the family. The legislation continues to require that all reports received by the director must be assessed to determine if a child is in need of intervention services. Individuals and professionals concerned about a child's safety continue to be required to contact the director.

The screening process is the entry point to receive and assess reports of children who may be in need of intervention. The *Enhancement Act* emphasizes this critical activity, as it is the first point of contact with a family system. The screening will

determine if a further assessment of the child's safety is required. The preliminary assessment of the child's needs determines what the most appropriate and least disruptive response to the family situation should be. This may include a referral to the community or a further assessment and follow up to ensure the child's safety.

Differential response includes a child-centered, family-focused, strength-based assessment with two potential legislated streams of activity for families whose children are found to be in need of intervention services, including:

1. **Family Enhancement Services** includes the provision of services and supports needed to enable the family to continue to care for their child in the home. Family enhancement services are utilized when the child and family are motivated to address the issues impacting their family situation. Services may be provided to the family through a Family Enhancement Agreement, formerly called a support agreement, which is signed by the parents of the child. Family enhancement services can also be provided to youth, 16 years of age or older, who are living independently from their family and who have been assessed to be in need of intervention services. Youth are also required to work with their caseworker in developing a Transition to Independence Plan that identifies goals and tasks to successfully support them to adulthood.

2. **Protection Services** are utilized when there is a higher risk to the child and it is determined that a placement or court intervention is required to ensure the safety and well-being of the child. This process involves the completion of an assessment of the family's situation through an investigation process.

CHILDREN'S PROCEDURAL RIGHTS

Legislation: Section 2.1

The *Enhancement Act* places an increased focus on caseworkers informing children of their procedural rights, whenever appropriate given their developmental level. To further assist children in understanding their procedural rights, a brochure will be available and discussed with the child.

CHILD AND YOUTH ADVOCATE

Legislation: Section 3

The Children's Advocate, re-named the Child and Youth Advocate, represents the rights, interests and viewpoints of young people who receive services under the *Enhancement Act*. An additional requirement of the Child and Youth Advocate, as per the legislation, is to further assist children in maintaining stable, nurturing relationships with healthy adults through a new program called the Natural Advocate Program. Additional information on this program will be available from the Child and Youth Advocate Office prior to proclamation of the act.

A natural advocate is an adult who is known to and accepted by the young person and who is willing to take issues forward on the young person's behalf. A natural advocate is not a decision maker and does not have any authority or rights of guardianship. Their role may include assisting the child/youth in problem solving and understanding their procedural rights under the legislation. Whether or not a youth chooses to be involved with a natural advocate, they will always have access to the support and guidance of the Child and Youth Advocate.

The legislation also provides increased reporting requirements to the Minister of Alberta Children's Services. The Office of the Child and Youth Advocate must now report activities and observations to the Minister every three months. This change allows the ministry the opportunity to respond to case and system concerns quickly and efficiently.

HEALTH CARE ON APPREHENSION

Legislation: Section 22.1

The legislation provides the director with the authority to obtain medical treatment for an apprehended child if the child or the guardian cannot or will not consent to the treatment. The act clarifies that the authority granted by the court to provide medical treatment extends to the conclusion of the course of the treatment. This allows the director to terminate involvement with the family if appropriate. The act also protects medical service providers from liability where the child or guardian has not consented to medical treatment.

ABORIGINAL CHILDREN, YOUTH AND FAMILIES

Legislation: Section 1(1)(m), 2(p), 58(1)(g), 67,107, 122

The *Enhancement Act* clarifies and strengthens the involvement of Aboriginal communities in planning for their children. In case planning and obtaining earlier permanency for children, there is an increased focus on the importance of collaboration between Child and Family Services Authorities, Delegated First Nations Agencies and Métis communities.

The *Enhancement Act* defines "Aboriginal" to include Indian, Métis and Inuit. In policy, First Nations is used to refer to Indian children, families and communities.

The *Enhancement Act* specifies that in making decisions relating to an Aboriginal child, the uniqueness of the Aboriginal culture, heritage, spirituality and traditions should be respected and consideration should be given to the importance of preserving the child's cultural identity. For Aboriginal children who are placed in care, this can be achieved by providing opportunities to participate in culturally appropriate activities directly connected with the child's family, community and environment.

In situations where Aboriginal children are placed in care, placements are to be planned in accordance with the following placement priorities as per the *matters to be considered*:

- Extended family.
- Within or as close as possible to the child's original home community.
- Ensuring the child's familial, cultural, social and religious heritage is maintained.
- Ensuring the provision of stability and continuity of care and relationships for the child.

The *Enhancement Act* clarifies that in specific situations, a person designated by the Council of the Band may be involved in case planning relating to a First Nations child. Through involvement, the child will be supported in maintaining their cultural identity, including their language, history and traditions, and staying

connected with their community. In specific circumstances outlined in the legislation, the caseworker is required to contact the First Nations designate, or obtain parental consent to facilitate the involvement.

When an individual identifies themselves as Métis, the caseworker will obtain parental consent to involve Métis resources in planning for the child, including case planning, support, and service provision for the child, youth and family.

Regarding the adoption of Indian children, the legislation requires the following:

- If the child is an Indian and a member of a band, a First Nations designate must be contacted to facilitate involvement in decisions relating to the adoption of the child.

- The adoptive parents must ensure the child is informed of their Indian status, and that the child is able to exercise any rights he or she may have as an Indian person.

- Upon making an adoption order, the court must inform the adoptive parents of their legal obligations.

- The uniqueness of Aboriginal culture, heritage, spirituality and traditions must be respected and the child's cultural identity preserved.

MEDIATION AND REGIONAL ALTERNATIVE DISPUTE RESOLUTION PROCESSES

Legislation: Section 3.1

The legislation and supporting policy emphasizes the use of mediation and regional alternative dispute resolution processes to support the early resolution of issues impacting case planning for children and families.

Dispute resolution processes enable the meaningful involvement of parents in resolving issues in a collaborative and supportive manner with their caseworkers. Regional alternative dispute resolution processes, which vary by region and First Nations communities, include community practices and programs that support conflict resolution. These processes can be used to assist in the development of the concurrent plan, as well as offset the need for administrative reviews and court hearings. Families are encouraged to take advantage of these programs, which may include family group conferencing, healing circles and peace-making processes.

CONCURRENT PLANNING AND COURT PROCESSES

Legislation: Sections 21.1 and 32(2)(c)

The provisions in the *Enhancement Act* concerning concurrent planning further reinforce the importance of involving families in the decision-making process to strengthen family reunification and ensure earlier resolution of issues, as well as increased permanency for children.

The act requires the concurrent planning process be started following a child coming into the care of the director. The plan focuses on permanency and stability for the child with a continued priority on reunification with the family, as well as placing the child in their extended family or community. The planning process involves the development of two plans at the same time:

1. A reunification plan which includes the provision of services to facilitate the return of the child to the custody of the child's guardian, and

2. An alternative permanency plan for the child outlining placement options in the event that the child cannot be returned to the guardian's care. Stability can be increased for children by the early identification of a placement within the child's extended family and community.

CUMULATIVE TIME IN CARE

Legislation: Section 33

The early years from birth to age six are crucial to a child's development. Research shows that children who are nurtured and given stability during this period are less likely to develop learning, behavioural and health problems. Attachment issues and development of children need to be primary considerations in permanency planning. Under the *Enhancement Act* the cumulative time in care timelines have been shortened and varied based on the child's age, with an increased focus on children under the age of six to better support the healthy development of children.

The limit with respect to the cumulative time a child may be in government care has been changed to a maximum of 15 months for children under the age of six, and 18 months for children over the age of six. Additional accountability requirements are included in the legislation to ensure that extensions within the timeframes are justified to the court with evidence. This amendment to the act supports the achievement of earlier permanency for children to promote healthy development.

SECURE SERVICES

Legislation: Sections 43.1 to 51

"Secure treatment," now referred to as "secure services" under the *Enhancement Act*, is the most intrusive option of intervention for youth and should be used only after all other avenues have been exhausted. Secure services reflect the importance of providing a continuum of services to a child in need of intervention and focuses on a multi-disciplinary team approach to stabilize behaviour. Increased accountability ensures that only high-risk children who are receiving services under the act are accessing secure services.

A secure services plan, created in collaboration with other professionals involved, must be developed for the child. The plan outlines the services the child will receive while in secure services and upon discharge and increases accountability for obtaining stabilization for the child.

SUPPORTING YOUTH TO SUCCESSFULLY TRANSITION TO ADULTHOOD

Legislation: Section 57.2(3)(b)

Youth are defined as 16 years of age or older under the *Enhancement Act*. For youth who are assessed to be in need of intervention services, they must develop a Transition to Independence Plan with their caseworker and support team. This plan ensures young people develop the necessary skills and have access to the resources they require to prepare them for the successful transition to independence and adulthood.

In obtaining intervention services, youth are accountable for following through with the goals and tasks identified in their plan which includes:

- the youth's goals and ambitions,
- education and employment opportunities,
- life skills development,
- placement objectives,
- service, (program) supports, and
- connections to family and significant others.

The *Enhancement Act* identifies the director's ability to continue to provide support and/or financial assistance, formerly defined as care and maintenance, to youth between the ages of 18 and 22 years of age who were previously obtaining intervention services. Before entering into a Support and Financial Agreement with a young adult, it must be determined that their situation meets the eligibility criteria and that they will continue to follow through with the objectives outlined in their Transition

to Independence Plan. This will ensure youth have developed the necessary skills and have access to resources to assist them in successfully transitioning to adulthood.

OBTAINING EARLIER PERMANENCY FOR CHILDREN

Legislation: Sections 34.1 and 56.1

Under the *Enhancement Act* the current Post Adoption Support Program and the new ability to provide post private guardianship supports have been integrated into one program called Supports for Permanency. The intent of the program is to support permanency for children who are in the care of the director under permanent guardianship order status. The Supports for Permanency program provides financial support and services, in accordance with the regulations, to caregivers who assume private guardianship or adoption of children under permanent guardianship order status. Continuing to provide financial and service supports to these caregivers ensures more children will obtain permanent homes.

ADMINISTRATIVE REVIEWS AND APPEALS

Legislation: Sections 117.1 to 120

Collaborative decision-making and the use of mediation and regional alternative dispute resolution processes are supported in the *Enhancement Act*. Policy encourages all impacted parties to participate in finding early resolutions to minimize the need for administrative reviews or appeals.

The administrative review and appeal panel provide two legislated options for deciding what is in the best interests of the child when a dispute cannot be settled using regional dispute resolution processes.

It is now a requirement to go through an administrative review process prior to accessing the appeal panel. As per the legislation, any person directly affected by a decision made by a director in respect of a child may file a written request for an administrative review within 30 days of the decision. Upon receipt of the request the director has 15 days to come to a resolution.

If the administrative review process does not bring about a resolution, eligible individuals may consider requesting an appeal. The legislation identifies the individuals who can appeal a decision of a director and outlines the types of decisions made by the director that can be appealed.

The act clarifies that an appeal panel must adhere to the *matters to be considered* and ensure all decisions are made in the best interests of the child and take into consideration the importance of permanency for the child.

FACILITY LICENSING

Legislation: Sections 105 to 105.7

The legislation now requires the licensing of all residential facilities caring for children receiving services under the act. The mandate to license facilities that provide care to children and youth in the care of the director was removed from the *Social Care Facilities Licensing Act* and has been included in the *Enhancement Act*. Under the new legislation the director can

only place children in licensed residential facilities. The licensing requirement is intended to be coordinated with the contracting process, accreditation/certification process and the foster home approval and annual review process.

The goal of the licensing requirement is to ensure quality of care by increasing the facilities' accountability and ensuring that children in the care of the director are provided for in a consistent manner, as per legislated provincial standards outlined in the *Residential Facilities Licensing Regulation* and supporting policy.

The mandate of licensing was expanded to include the licensing of all foster homes rather than just those homes providing care for four or more children in the care of the director. The licensing of foster homes is coordinated with the approval process as well as the annual review, and ensures the licensing requirements are respectful of the individual family systems of the caregivers.

All residential facilities that are in operation at the time of proclamation of the act have up to 18 months in which to comply with the new licensing requirements. Upon proclamation of the legislation, all new residential facilities will require a license prior to being able to accept placements.

ADOPTION

Legislation: Sections 59 to 74

The *Enhancement Act* provides *matters to be considered* that are specific to determining the child's best interests when making adoption decisions. The changes to the legislation include:

- Direct placement adoptions can now be completed in a similar manner as the process that was formerly reserved for relative and stepparent adoptions.
    - Accountability mechanisms continue to be in place, including birth parents and the courts' ability to request a home assessment report if considered appropriate to do so.
    - Agencies may continue to assist adoptive parents with the processing of direct placement adoptions, if the adoptive parents choose to use the services of an agency.
- To process adoptions, a desk procedure, whereby an adoption application would be considered by a judge in the judge's chamber without the necessity of an in-person hearing, is enabled in the legislation. The judge could require the attendance of the child or applicant if necessary, and in exceptional cases order a formal hearing.
- A legislative base and process has been established for international adoptions for Alberta residents. This process is handled by Adoption Services at Alberta Children's Services in Edmonton and provides adoptive parents with clear requirements to ensure their international adoption proceeds smoothly.
- Counselling, education and support services will continue to be available to adoptive parents and birth parents to facilitate adoptions.

ADOPTION RECORDS

Legislation: Sections 74.1 to 75

The *Enhancement Act* provides greater access to adoption records through the following amendments:

1. Adoption records created prior to January 1, 2005 will be open to an adult adoptee and birth parents, unless a veto has been filed.

   An adult adoptee and birth parents have access to identifying information about one another that is contained in the adoption record, unless a veto has been filed. A veto prevents disclosure of identifying information about the birth parent or adoptee that filed the veto.

2. Adoption records created after January 1, 2005 will be open to an adult adoptee and birth parents.

   An adult adoptee will have full access to their adoption information, including identifying information about birth parents and other birth family members. Birth parents would also have full access to this adoption information, once the adoptee reaches adulthood.

   Either party can register a "contact preference" with the Post Adoption Registry. The contact preference may indicate that the individual does not wish to be contacted, or may indicate a preferred method for contact. The birth parents or adult adoptee accessing the adoption information would be advised of the contact preference. It would be up to the individual to choose whether or not to honour the contact preference.

OFFENCE

Legislation: Section 130

Reflecting the seriousness with which violations should be treated, the *Enhancement Act* provides for an increased penalty of up to $25,000 and/or up to 24 months in prison for a person guilty of wilfully causing a child to need intervention or of interfering with work under the *Enhancement Act*.

BAN ON PUBLICATION

Legislation: Section 126.2

The amendments broaden the ban on publication to prohibit publication of any identifying information pertaining to a child receiving services under the *Enhancement Act* except in specific circumstances. An overview of the exceptions to the ban on publication is provided:

- The director may consent to the publication if it is in the child's best interests.
- The child is over the age of 18 and consents to the publication of identifying information.
- The court grants permission, upon application by the child or guardian, to publish the information (if determined to be in the best interests of the child.)

The legislation provides for a $10,000 fine, and in default, a 6-month prison term for a person disregarding the ban on publication.

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